

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

M.A.C.M.A.No.80 of 2006

JUDGMENT:

Aggrieved with the order dated 16.08.2005 in M.V.O.P.No.355 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal –cum- IV Additional District Judge, Tirupati, whereby and whereunder a sum of Rs.2,85,000/- was granted as compensation as against the claim of Rs.6.00 lakhs, laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), for the death of one P.Raj Kumar in a road accident, the Andhra Pradesh State Road Transport Corporation preferred the instant appeal.

For convenience sake, the parties hereinafter referred to as they were arrayed before the Tribunal in the O.P.

The facts, in brief, are that, on 18.11.2001, at about 2.45 a.m., the said P.Raj Kumar was proceeding on a two wheeler as a pillion rider driven by one Saravanan and, when they reached near Kailasapuram Village on Puttur-Nagari main road, the APSTRC bus bearing No.AP 10 Z 2774, driven in a rash and negligent manner, dashed the motor cycle due to which both of them died instantaneously. The petitioners, being the parents of the deceased who died in an unmarried status, projecting that he was 22 years old on the date of the accident, studied welding technology course in S.A.M., I.T.I, Egmore, Chennai, earning Rs.210/- per day and contributing the entire amount to his family, and sought the aforesaid amount as compensation.

The Corporation opposed the claim raising various pleas and attributing rash and negligent driving to the driver of the two wheeler and disputing the income of the deceased, including the age of the deceased at the time of the accident.

The Tribunal framed three issues about the responsibility for the accident. During enquiry, the first petitioner examined himself as PW.1, besides examining one Sri M.Chandran as PW.2, and Sri R.Veeraswamy Naidu as PW.3 and marked Exs.A.1 to A.9. On behalf of the respondents, Sri A.Purushotham was examined as RW.1, and no documents were filed.

The Tribunal, on an analysis of the evidence, let in by the petitioner, held issue

No.1 in favour of the petitioners. On issue No.2, not agreeing with the stand of the petitioners that the deceased was earning Rs.210/- per day, however, fixed the monthly income at Rs.2,500/-, after deducting 1/3rd towards personal expenses, and the contribution to the family was arrived at Rs.30,000/- p.a., applied multiplier '9' perhaps, taking the age of the younger parent i.e. the second petitioner, and determined the loss of dependency at Rs.2,70,000/-. The Tribunal has also granted a sum of Rs.2,000/- towards transport to hospital; Rs.2,500/- towards funeral expenses/- Rs.500/- towards damage to clothes; Rs.10,000/- towards love and affection; and, thus, granted a sum of Rs.2,85,000/- as compensation with interest at 9% p.a.

The aforesaid order is under challenge in the instant appeal on the ground that compensation granted by the Tribunal is excessive, and the multiplier '8' ought to have taken instead of '9' for a person of 58 years old. It is also stated that the Tribunal, without assigning any reasons, has taken Rs.30,000/- p.a. as contribution to the family instead of considering the notional income in the absence of any proof to show that the deceased was earning any amount on his so-called profession of welding and, therefore, sought to set aside the order and decree passed by the Tribunal.

Heard Ms.I.K.Annapurna, learned Counsel representing Sri A.Rama Rao, learned Standing Counsel for the appellant - APSRTC. Despite service of notice on respondent Nos.1 and 2, none appears for them.

Perused the order and evidence on record, let in by the petitioner and the respondents. It is no doubt true, the Tribunal has not assigned reasons in arriving at Rs.2,500/- as the monthly income of the deceased after deducting 1/3rd towards his personal expenses but the finding recorded by the Tribunal cannot be disturbed since it is not a claim under Section 163A of the Act besides there is evidence to show that the deceased did I.T.I as per Ex.A.6, and the salary certificate, Ex.A.9, supported by the evidence of PW.2, and more particularly, when nothing is brought out in the cross-examination of PW.2 to condemn the contents of Ex.A.9. It is also worth mentioning, that in view of decisional law since it is well settled that half of the income of the deceased, since he died in unmarried status, has to be deducted towards personal expenses and the remainder towards contribution but the age of the deceased

has to be considered for applying the multiplier as per the decisions in Sarla Verma v. Delhi Transport Corporation, and Amrit Bhanu Shali v. National Insurance Company rendered by the Hon'ble Supreme Court. Thus, if the compensation is determined basing on the principles laid down by the Hon'ble Supreme Court, in the aforesaid decisions, the same, far exceeds the compensation determined by the Tribunal. Hence there is no merit in the appeal. The Tribunal has granted interest at 9% p.a., and the same is reduced to 7.5% p.a. as per the decision in Rajesh v. Rajbir Singh.

Thus, the Appeal is allowed in part to the extent of reducing interest from 9% p.a. to 7.5% p.a. by maintaining the order under challenge in all other respects. No order as to costs.

Miscellaneous petitions pending, if any, shall stand disposed of.

A.SHANKAR NARAYANA,J

Date: 25.03.2015

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